

CONCURRENCE IN SENATE AMENDMENTS

AB 2106 (Irwin)

As Amended August 15, 2016

Majority vote

ASSEMBLY: 78-0 (May 12, 2016) SENATE: 39-0 (August 17, 2016)

COMMITTEE VOTE: 7-0 (April 12, 2016) RECOMMENDATION: concur

Original Committee Reference: **A.,E.,S.,T., & I.M.****SUMMARY:** Makes various changes to the Sellers of Travel law.**The Senate amendments**

- 1) Provide the existing exemption from the Sellers of Travel Law (Travel Law) is limited to a natural person:
 - a) who is an individual,
 - b) a single-member limited liability company whose sole member is an individual, or,
 - c) a single-shareholder “S” corporation whose sole shareholder is an individual that meets specified conditions.
- 2) Restructure and clarify the existing fee and fines authorized under the Travel Law.
- 3) Make conforming changes to the requirement that the Attorney General (AG) suspend the registration of a Seller of Travel (SOT) who fails to make any required payment or submits a check in payment of a registration fee or late fee required by this section that is not honored by the institution on which it is drawn, or fails to provide the file number assigned them, as required.
- 4) Require a SOT to provide the AG the name and contact information for the sole member or the sole shareholder of a limited liability company or “S” corporation, as described, with which the SOT contracts, as well as their file number issued by the Secretary of State or Franchise Tax Board, in addition to other requirements in existing law.
- 5) Extend consumer protections by allowing refund payments to persons aggrieved by sellers of travel who had been paid-up participants at any time during the 18 months previous to the time of sale.
- 6) Make additional technical, conforming and chaptering out amendments.

EXISTING LAW:

- 1) Establishes the Law which provides a comprehensive scheme for the regulation of sellers of travel, as defined, and requires a SOT, unless exempted, to register with the AG and to comply with various requirements. (Business and Professions Code Section (BPC) 17550 *et seq.*)
- 2) Defines a SOT as a person who sells, provides, furnishes, contracts for, arranges, or advertises that he or she can or may arrange, or has arranged, at wholesale or retail either of the following: air or sea transportation either separately or in conjunction with other travel services, or land or water vessel transportation, other than sea carriage, either separately or in conjunction with other travel services if the total charge to the passenger exceeds \$300. (BPC 17550.1(a))
- 3) Excludes from the definition of a SOT the following: an air carrier; an ocean carrier; a hotel, motel, or similar lodging establishment that arranges for transportation for its registered guests; a motor club; or a motor or rail carrier or water vessel operator operating from a state, federal, or other governmental entity. (BPC 17550.1(b))
- 4) Requires a SOT to register with the AG and file certain information as part of registration, including the name and contact information of individuals a SOT contracts with. Requires the AG to suspend a SOT's registration for failure to make payment to the Travel Consumer Restitution Fund (TCRF) or writes a registration fee check that is not honored. Authorizes the AG to contract for the processing of SOT registrations. Exempts individuals that conduct their activities in accordance with specified procedures and disclosures. (BPC 17550.20, 17550.21)
- 5) Establishes the Travel Consumer Restitution Corporation (TCRC) which creates the TCRF as a mechanism for an aggrieved passenger to be reimbursed when a SOT fails to provide for travel or in the event that a SOT becomes insolvent. (BPC 17550.38)

FISCAL EFFECT: This bill passed out of the Senate Appropriations Committee, pursuant to Rule 28.8.

COMMENTS: According to the author the substantive amendments came at the request of the AG's office, the state agency tasked with regulation of the SOTs, and the Secretary of States' Office, in order to provide increased consumer protection in particular through greater ease of enforcement, in addition to addressing technical issues and chaptering out conflicts.

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FN: